



**CITY OF HUNTINGTON BEACH
PUBLIC WORKS COMMISSION
INFORMATION ITEM**

Item No. PWC 07-020

SUBMITTED TO: Chairman Siersema and Members of the Commission
SUBMITTED BY: Robert F. Beardsley, PE, Director of Public Works
Robert F. Beardsley
DATE: June 20, 2007
SUBJECT: Bidding and Purchasing Guidelines

At the May meeting, the Public Works Commission expressed interest in an explanation of the City's bidding and purchasing thresholds. Attachment No. 1 summarizes this information. Documentation for the various practices and thresholds are included in Attachment Nos. 2, 3, 4, and 5.

Attachments:

Attachment 1	Summary of Bidding and Purchasing Guidelines
Attachment 2	City of Huntington Beach Municipal Code Chapter 3.02
Attachment 3	City of Huntington Beach Municipal Code Chapter 3.03
Attachment 4	City of Huntington Beach Administrative Regulation 229
Attachment 5	City of Huntington Beach City Charter Section 614

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ATTACHMENT #1

City of Huntington Beach
Bidding and Purchasing Guidelines

Goods, maintenance and repair services--(Huntington Beach Municipal Code Chapter 3.2)

Under \$30,000

- ⇒ Informal bids from two or more vendors are obtained by the Purchasing Division
- ⇒ Awarded to the lowest responsible vendor

\$30,000 or more

- ⇒ **Formal bids** are obtained from two or more vendors
- ⇒ Requires RFP preparation or specifications prepared by the requesting department and Purchasing

Professional Services--(Huntington Beach Municipal Code Chapter 3.03)

\$30,000 or less

- ⇒ Submit scope of services request to one or more qualified firms
- ⇒ Department prepares contract with selected firm
- ⇒ Firm must meet City insurance criteria

Over \$30,000

- ⇒ Department and Purchasing staffs prepare Request for Proposal (RFP)
- ⇒ RFP distributed to three or more qualified firms and on City Website
- ⇒ Quality based selection process with team review

Sole Source Purchases --(Administrative Regulation 229)

\$50,000 or less

- ⇒ Department submits sole source rider if known
- ⇒ Purchasing performs market research to determine sole source
- ⇒ Purchasing determines if price is reasonable for the product
- ⇒ Purchasing verifies vendor's ability to meet requirements and financial stability
- ⇒ Requires approval from Deputy City Administrator, Finance Director and Department Director

More than \$50,000

- ⇒ All of the above
- ⇒ City Council approval

Construction Contracts Huntington Beach City Charter Section 614 and Contract Law
(Construction of improvements, excludes maintenance and repairs)

\$25,000 or less

- ⇒ Informal bids
- ⇒ Treated as purchase of repairs and maintenance services

Over \$25,000

- ⇒ Project approved by City Council,
- ⇒ Plans and specifications by Department and Engineer/Architect
- ⇒ Advertised in newspapers, bid houses, website
- ⇒ Bids opened publicly by the City Clerk
- ⇒ Awarded to lowest responsive and responsible bidder
- ⇒ Performance bonds required
- ⇒ Also governed by State and Federal contract laws and regulations

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ATTACHMENT #2

Chapter 3.02

PURCHASES OF GOODS AND SERVICES

(2259-2/78, 2433-7/80, 2464-12/80, 3144-9/92, 3316-1/96, 3322-3/96, 3510-10/01, 3718-8/05, 3751-11/06)

Sections:

- 3.02.010 Established
- 3.02.015 Purpose
- 3.02.020 Director--Duties
- 3.02.025 Definitions
- 3.02.030 Director--Exemptions from centralized purchasing
- 3.02.040 Procedures
- 3.02.050 Procurement and disposition responsibilities
- 3.02.060 Equipment leases
- 3.02.070 Methods of procurement
- 3.02.080 Competitive bidding requirement; exemptions
- 3.02.090 Pre-bid conferences or site inspections
- 3.02.100 Advertisement of bidding opportunities
- 3.02.110 Correction or withdrawal of bids
- 3.02.120 Receipt of bids or proposals
- 3.02.130 Evaluation of bids or proposals
- 3.02.140 Preparation of bid or proposal documents
- 3.02.150 Cancellation of solicitations; Rejection of bids
- 3.02.160 Procurement records; Public inspection
- 3.02.170 Bonds and other security; insurance requirements
- 3.02.180 Local business preference
- 3.02.190 Exempt and emergency procurements
- 3.02.195 Right to inspect plant and audit records
- 3.02.200 Disqualification of vendors
- 3.02.210 Disposition of surplus personal property
- 3.02.220 Ethics

3.02.010 Established. The Central Services Division is established for the purpose of providing for centralized purchasing of all supplies, services and equipment for the various agencies of the City. (2259-2/78, 2464-12/80, 3510-10/01, 3718-8/05)

3.02.015 Purpose. This Chapter is adopted in order to provide a uniform procedure for contracting for goods and services by the City of Huntington Beach, to provide for fair and equitable treatment of all persons involved, to obtain the highest possible value in exchange for public funds, and to safeguard the quality and integrity of the purchasing and contract process. (3510-10/01)

3.02.020 Director--Duties. The Finance Director shall direct the activities of the Central Services Division. The Purchasing/Central Services Manager shall be responsible to the Finance Director. (2259-2/78, 2464-12/80, 3510-10/01, 3718-8/05, 3751-11/06)

3.02.025 Definitions. For the purposes of this Chapter, the following definitions apply: (3510-10/01)

- (a) Bid or Proposal Documents. The documents, including their attachments and addenda, which set forth instructions to bidders or proposers, and are disseminated for the purpose of soliciting bids or proposals. (3510-10/01)
- (b) City Administrator shall mean City Administrator or his/her designee. (3510-10/01)

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- (c) City Employee. An individual who performs services for the City in the capacity of an elected or appointed official, or as a compensated employee of the City or of a temporary services agency retained by the City. "City employee" does not include independent contractors. (3510-10/01)
- (d) Contract. Agreements, regardless of what they may be labeled, between the City and one or more other parties for the purchase or disposition of goods and/or services. (3510-10/01)
- (e) Contractor/Vendor/Supplier. Any person who has entered into an agreement with the City for the provision or disposition of goods and/or services. (3510-10/01)
- (f) Finance Director shall mean the Finance Director or his/her designee.
(3510-10/01, 3718-8/05, 3751-11/06)
- (g) Financial Interest. (3510-10/01)
 - (1) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person has received compensation within the past year, or is entitled to, or is currently receiving compensation; (3510-10/01)
 - (2) Ownership, whether wholly or in part, of any property or business; or (3510-10/01)
 - (3) Status as an officer, director, trustee, partner, employee, or manager of a business.
(3510-10/01)
- (h) Goods. Articles moveable at the time of sale, including but not limited to equipment, supplies and materials. (3510-10/01)
- (i) Gratuity. A gift, payment, loan, advance, deposit of money, or service, presented or promised in return for or in anticipation of favorable consideration in the procurement process. "Gratuity" does not include the compensation paid by or due from the City or from a temporary service agency under contract with the City to an employee in connection with the employee's services for the City. (3510-10/01)
- (j) Immediate Family. Any spouse, child, stepchild, parent or stepparent of a City employee. The relationship of parent to child includes both natural and adoptive relationships. (3510-10/01)
- (k) Local Business. A business entity with one or more fixed offices and/or locally taxable distribution points within the boundaries of the City of Huntington Beach which holds a current and valid City business license with a Huntington Beach business street address.
(3510-10/01)
- (l) Maintenance and Repair Services. Services intended to preserve and/or restore a public work to a clean, safe, efficient and/or continually usable condition. Maintenance and repair services may include, but are not limited to: carpentry, electrical, painting, plumbing, glazing and other craftwork to preserve a facility in the condition for which it was intended; repairs, cleaning and other operations on machinery and other equipment permanently attached to a facility as fixtures; the mowing, pruning, and trimming of lawns, grass, trees, shrubs, bushes and hedges; and the regular removal or relocation of by-products or waste products accumulated at City facilities as the result of ongoing environmental processes. (3510-10/01)
- (m) Person. Any individual, partnership, limited partnership, association, corporation, labor union, committee, club, or governmental, public or quasi-public entity. (3510-10/01)
- (n) Procurement. The acquisition of goods and/or services by the City, including but not limited to purchasing, rental or leasing, and all functions and procedures pertaining to such acquisitions. (3510-10/01)

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- (o) Professional Services. Services, which involve the exercise of professional discretion and independent judgment based on an advanced or specialized knowledge, expertise or training gained by formal studies or experience. Such services include, but are not limited to, those provided by appraisers, architects, attorneys, engineers, instructors, insurance advisors, physicians and other specialized consultants. The procurement of professional services is governed by Huntington Beach Municipal Code Section 3.03. (3510-10/01)
- (p) Responsible Bidder. A bidder determined by the awarding authority: (3510-10/01)
 - (1) To have the ability, capacity, experience and skill to provide the goods and/or services in accordance with bid specifications; (3510-10/01)
 - (2) To have the ability to provide the goods and/or services promptly, or within the time specified, without delay; (3510-10/01)
 - (3) To have equipment, facilities and resources of such capacity and location to enable the bidder to provide the goods and/or services; (3510-10/01)
 - (4) To be able to provide future maintenance, repair, parts and service for the use of the goods purchased, if appropriate; (3510-10/01)
 - (5) To have a record of satisfactory or better performance under prior contracts with the City and other purchasers where such bidder has previously been awarded such contracts; (3510-10/01)
 - (6) To have complied with laws, regulations, guidelines and orders governing prior or existing contracts performed by the bidder, if applicable; (3510-10/01)
- (q) Responsive Bidder. A bidder determined by the Purchasing/Central Services Manager to have submitted a bid or proposal which conforms in all material respects to the requirements of the bid or proposal documents. (3510-10/01, 3718-08/05)
- (r) Services. Work performed or labor, time and effort expended by an independent contractor. (3510-10/01)
- (s) Specifications. A description of the physical or functional characteristics or of the nature of the required goods and/or services. (3510-10/01)
- (t) Surplus Personal Property. Goods owned by the City which are no longer needed or which are obsolete or unserviceable, property that is a by-product (scrap metal, used tires and oil, etc.), or any unclaimed, seized or abandoned personal property in the possession or custody of the department of public safety which may be legally disposed of by the City. (3510-10/01)

3.02.030 Director--Exemption from centralized purchasing. The Finance Director may authorize in writing any agency to purchase or contract for specified supplies, services and equipment independently of the Purchasing Division; but he/she shall require that such purchases or contracts be made in conformity with the procedures established by this Chapter, and shall further require periodic reports from the agency on the purchases and contracts made under such written authorization. (2259-2/78, 2464-12/80, 3510-10/01, 3718-08/05, 3751-11/06)

3.02.040 Procedures. Purchase of supplies, services, equipment and the sale of surplus personal property shall be by procedures provided for in this Chapter. (2259-2/78)

3.02.050 Procurement and disposition responsibilities.

- (a) The Director or his/her designee represented of the Department requiring goods and services, other than professional services, shall: (3510-10/01)
 - (1) Identify its procurement needs and the availability of funding. (3510-10/01)
 - (2) Submit to the Purchasing/Central Services Manager specifications for the required goods and/or services. (3510-10/01, 3718 08/05)
 - (3) Participate in the evaluation of bids and proposals, as required. (3510-10/01)

- (4) Inspect goods delivered and services, other than professional services, performed to determine conformity with the requirements set forth in the bid or proposal documents and with contractual obligations, authorize payment for conforming goods and/or services and notify the Purchasing/Central Services Manager of nonconforming goods and/or services. (3510-10/012, 3718 08/05)
- (b) Finance Director. The Finance Director shall be responsible for the procurement of goods and/or services for the City in accordance with the provisions of this Chapter. No procurement of goods and/or services shall be made by any City employee independently of the Finance Director except in cases of emergency, unless otherwise authorized in writing by the City Administrator. The Finance Director shall: (3510-10/01, 3718 08/05, 3751-11/06)
 - (1) Prepare and recommend to the City Administrator operational procedures and forms for the procurement of goods and/or services in cooperation with the Department Directors. (3510-10/01)
 - (2) Procure or supervise the procurement of all goods and/or services needed in coordination with the department. (3510-10/01)
 - (3) Process the contracts awarded. (3510-10/01)
 - (4) Whenever possible, establish standardized specifications and consolidation of requirements for goods and/or services required by two or more departments. (3510-10/01)
 - (5) Determine the types and amounts of bid security and any performance security acceptable for City procurements. (3510-10/01)
 - (6) Be the awarding authority for every procurement of goods and/or services for: (3510-10/01)
 - (i) which the City has an approved budget and sufficient unencumbered appropriated funds; and (3510-10/01)
 - (ii) wherein the cost of which will be fully paid or reimbursed to the City, regardless of amount. (3510-10/01)
 - (7) Review the results of all formal competitive bid and proposal solicitations for which the City Council is the awarding authority. (3510-10/01)

3.02.060 Equipment leases. Upon approval of the City Attorney, the Finance Director may enter into contracts to lease equipment in the following circumstances: (2259-2/78, 2464-12/80, 3322-3/96, 3510-10/01, 3718-0805, 3751-11/06)

- (a) **Budgeted leases.** There exists an unencumbered appropriation in the fund account for the amount of the lease payments for the current fiscal year. (3322-3/96)
- (b) The annual budget for the fiscal year in which the lease is or was entered into provides that: (3322-3/96)
 - (i) The equipment may be leased; (3322-3/96)
 - (ii) The useful life of the equipment; (3322-3/96)
 - (iii) The lease term; (3322-3/96)
 - (iv) The annual lease payment; and (3322-3/96)
 - (v) The interest rate.” (3322-3/96)

3.02.070 Methods of procurement.

- (a) Small Procurements. Procurements anticipated to cost \$30,000 or less in one transaction shall be made using simplified and cost effective operational procedures and forms without use of formal or informal bids. Requirements shall not be artificially divided so as to constitute a small purchase under this subsection. (3510-10/01)
- (b) Formal Competitive Bids. Procurements anticipated to cost more than \$30,000 in one transaction shall be made by issuance of written invitations for bids. Bid documents include,

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- (c) at a minimum; instructions to bidders; specifications describing the required goods and/or services; bid forms and schedules; any required bond forms and proposed contract terms and conditions. The circumstances may require that a contract award be based on factors in addition to price. (3510-10/01)
- (d) Competitive Negotiation. The Purchasing/Central Services Manager may establish, and the bid or proposal documents shall clearly define in a competitive negotiation procurement a two-tiered process in which bids or proposals, as first received, constitute preliminary offers only. Subject to the Purchasing/Central Services Manager's judgment, the Purchasing/Central Services Manager shall have the authority to enter into negotiations with those persons reasonably likely of being considered for selection for contract award. Following such negotiations, best and final bids or proposals will be accepted by the Purchasing/Central Services Manager. Bidders or proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of bids or proposals. During negotiation, there shall be no disclosure beyond the City staff evaluating the matter of any information derived from bids or proposals submitted by competing bidder or proposers. The contract award shall be made to the bidder or proposer whose bid or proposal offers the best value to the City, taking into consideration price and the evaluation criteria set forth in the bid or proposal documents. (3510-10/01, 3718-08/05)

3.02.080 Competitive bidding requirement; exemptions.

- (a) Contracts for goods and/or services for which the cost to the City in one transaction will exceed \$30,000 shall be let by formal competitive bidding or proposals pursuant to this Chapter. Procurement requirements shall not be artificially divided so as to avoid the competitive bidding requirement. (3510-10/01)
- (b) The following are exemptions to the competitive bidding requirements: (3510-10/01)
- (1) Professional or specialized services, as defined by this Chapter; (3510-10/01)
 - (2) Emergency procurements, as defined by this Chapter; (3510-10/01)
 - (3) Situations where solicitations of bids or proposals would for any reason be impractical, unavailing or impossible; (3510-10/01)
 - (4) Sole source goods or services; (3510-10/01)
 - (5) Insurance and bonds; (3510-10/01)
 - (6) Public library collection materials or services for the provision of public library collection materials or other books or periodicals; (3510-10/01)
 - (7) Procurements funded by grants, donations or gifts when the special conditions attached to the grants, donations or gifts require the procurement of particular goods and/or services; (3510-10/01)
 - (8) Goods and/or services obtained from or through agreement with any governmental, public or quasi-public entity; (3510-10/01)
 - (9) Works of art, entertainment or performance; (3510-10/01)
 - (10) Surplus personal property owned by another governmental, public or quasi-public entity; (3510-10/01)
 - (11) Membership dues, conventions, training, and travel arrangements; (3510-10/01)
 - (12) Advertisements in magazines, newspapers, or other media; (3510-10/01)
 - (13) Goods procured from resale to the public; or (3510-10/01)
 - (14) Where Competitive bids or proposals have been solicited and no bid or proposal has been received. In such a situation the Purchasing/Central Services Manager may proceed to have the services performed or the goods procured without further competitive bidding; (3510-10/01, 3718-08/05)
- (c) The Purchasing/Central Services Manager shall conduct negotiations, as appropriate, as to price, delivery and terms and may require the submission of cost or pricing data in connection with the award of a contract which does not require competitive bidding. (3510-10/01, 3718-08/05)

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- (d) Nothing in this section shall preclude the solicitation of competitive bids or proposals, when possible. (3510-10/01)

3.02.090 Pre-bid conferences or site inspections. When deemed necessary the Purchasing/Central Services Manager is authorized to require bidders or proposers to attend pre-bid conferences or site inspections prior to the time and date set for receipt of bids or proposals and to consider bidders or proposers not in attendance as non-responsive. (3510-10/01, 3718-08/05)

3.02.100 Advertisement of bidding opportunities.

- (a) A notice inviting sealed formal competitive bids or proposals shall be advertised using one or more methods designed to provide reasonable public notice in a manner which will permit current information to be disseminated widely. (3510-10/01)
- (b) The notice shall specify the time on or before which bids or proposals will be received; where and with whom bids or proposals shall be filed; the date, time and place where and when bids or proposals will be publicly opened and the bids of each bidder declared. (3510-10/01)
- (c) At the bidder's request, and where City deems feasible, bid documents may be transmitted to the bidder electronically. (3510-10/01)

3.02.110 Correction or withdrawal of bids.

- (a) Before Date and Time for Receipt of Bids. Bids or proposals which contain mistakes discovered by a bidder before the date and time for receipt of bids may be modified or withdrawn by written notice to the Purchasing/Central Services Manager received prior to the deadline. (3510-10/01, 3718-08/05)
- (b) After Date and Time for Receipt of Bids. A bidder may not change its bid or proposal after the date and time set for receipt of bids. (3510-10/01)
- (c) Withdrawal of Bid. A bidder alleging a mistake in a bid or proposal may be permitted to withdraw its bid or proposal provided that it establishes the following to the satisfaction of the awarding authority: (3510-10/01)
- (1) A mistake was made; (3510-10/01)
 - (2) The bidder gave written notice of the mistake, and the manner in which it occurred, to the Purchasing/Central Services Manager within five calendar days following the deadline for receipt of bids; (3510-10/01, 3718-08/05)
 - (3) The mistake made the price materially different than the bidder intended it to be; (3510-10/01)
 - (4) The mistake was made in filling out the bid and not due to error in judgment or to carelessness in inspecting the site of the work or in reading the bid documents; (3510-10/01)
 - (5) If the awarding authority deems it to be in the best interest of the City, it may allow the lowest bidder to withdraw its bid and award a contract to the next lowest bidder. In the event that bid security was required and provided by the lowest bidder, the amount of the lowest bidder's bid security shall be applied to the difference between the lowest bid and the next lowest bid and the surplus, if any, shall be returned to the lowest bidder or the bidder's surety, as applicable. (3510-10/01)

3.02.120 Receipt of bids or proposals.

- (a) Formal Competitive Bids and Proposals. Sealed bids and proposals submitted in response to formal competitive bid or proposal solicitations shall be received by the Purchasing/Central Services Manager at a time, date and place designated in the bid or proposal documents. Said bids and proposals shall be identified as such on the outside cover. (3510-10/01, 3718-08/05)

- (b) **Public Opening.** Formal competitive bids or proposals, timely received, will be publicly opened by the Purchasing/Central Services Manager in the presence of one or more witnesses at the location designated in the bid notice. If members of the public are present, the names of those submitting bids and the aggregate bid pricing shall be read aloud at or shortly following the deadline for receipt of formal competitive bids except those involving competitive negotiation. (3510-10/01, 3718-08/05)
- (c) **Late Receipt.** Formal competitive bids or proposals received after the deadline for receipt of bids shall not be accepted and shall be returned to the bidder unopened unless necessary for identification purposes. The Purchasing/Central Services Manager shall submit written notification to the bidder stating what the deadline was, when the bid or proposal was actually received, and that it is being returned because it was received too late. (3510-10/01, 3718-08/05)
- (d) **No Receipt.** If no bids or proposals are received in response to a competitive solicitation for goods and/or services, or if none of the bids or proposals meet the requirements as specified in the solicitation document, the Purchasing/Central Services Manager may reissue the solicitation or the awarding authority may authorize the procurement of the required goods and/or services without further complying with competitive bidding requirements, or the City may cease the procurement. An authorization to procure without bidding shall be documented and become part of the procurement records available for public inspection. (3510-10/01, 3718-08/05)

3.02.130 Evaluation of bids or proposals.

- (a) **One Bid Received.** In the event that a single bid or proposal is received, the Purchasing/Central Services Manager shall have the authority to require the bidder or proposer to submit cost or pricing data to assist in determining if the price is reasonable. If the awarding authority determines that a bid price for goods and/or services is not reasonable, it may either reject the bid or it may authorize the Purchasing/Central Services Manager to attempt to negotiate a reasonable price with the bidder or proposer, subject to the awarding authority's acceptance. Negotiation shall be completed within a reasonable time, as specified by the awarding authority. Should such negotiation fail, the bid may be rejected. (3510-10/01, 3718-08/05)
- (b) **Tie Bids.** In the event that an identical price is received from two or more responsive and responsible bidders, and in the judgment of the awarding authority the public interest will not be served by re-advertising for bids, the awarding authority may authorize the Purchasing/Central Services Manager to negotiate for the best possible price. If one of the bidders is a local business then the tie bid will be awarded to the local bidder without the negotiations. (3510-10/01, 3718-08/05)
- (c) **Irregularities.** In considering bids or proposals for any goods and/or services contract, the awarding authority may waive, if it wishes to do so, minor defects or irregularities in the bids or proposals, provided that the discrepancy does not affect the bid or proposal amount or give the bidder or proposer an advantage over others. (3510-10/01)

3.02.140 Preparation of bid or proposal documents. Any person, with whom the City has contracted to prepare, or assist in the preparation of, bid or proposal documents, is ineligible to submit a bid or proposal for the provision of the goods or the performance of the services so specified. (3510-10/01)

3.02.150 Cancellation of solicitations; Rejection of bids.

- (a) **Cancellation of Solicitations.** The Purchasing/Central Services Manager may cancel competitive bid or proposal solicitations before the date and time set for receipt of bids or proposals upon a written determination that such action is in the City's best interest for reasons including, but not limited to any of the following: (3510-10/01, 3718-08/05)
 - (1) The City no longer requires the goods and/or services, as determined by the City; (3510-10/01)

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- (2) The City no longer can reasonably expect to fund the procurement, as determined by the Finance Director, City Administrator or City Council; (3510-10/01, 3718-08/05)
- (3) Proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable; (3510-10/01, 3751-11/06)
- (b) Rejection of Bids. The Purchasing/Central Services Manager may reject, in whole or in part, bids or proposals received in response to informal competitive bid or proposal solicitations, and may reject, in whole or in part, bids or proposals received in response to formal competitive bid or proposal solicitations. If all bids are rejected, the City has the discretion to readvertise. (3510-10/01, 3718-08/05)
- (c) Records. The fact that a solicitation was cancelled or bid or proposal rejected shall be made part of the procurement records. (3510-10/01)

3.02.160 Procurement records; Public inspection.

- (a) Records Maintenance. The Purchasing/Central Services Manager shall maintain records for each procurement which include, at a minimum, the procurement request from the Department; the bid or proposal documents for the procurement, if any; any and all bids or proposals received; the basis on which contract award is made; and a copy of any and all contracts awarded. Such records shall be maintained for a period of time in compliance with state law and the City's records retention schedule and shall be available for public inspection during normal City business hours. (3510-10/01, 3718-08/05)
- (b) Public Inspection. Informal and formal competitive bids not involving competitive negotiation shall be available for public inspection following the date and time set for receipt of bids. Informal and formal competitive proposals and formal competitive bids involving competitive negotiation shall be available for public inspection following contract award or rejection. The City will not disclose any pricing agreements it may have during the bidding process. (3510-10/01)

3.02.170 Bonds and other security; insurance requirements.

- (a) When Required. The Purchasing/Central Services Manager shall have the authority to require bid, performance and payment security or specific types and amounts of insurance coverage for specific procurements to the extent required by state law or upon a determination that it is in the best interest of the City to do so. (3510-10/01, 3718-08/05)
- (b) Bid Security. Bid security, if required, shall be submitted with the bid and shall be a certified check, cashier's check or surety bond issued by an admitted surety insurer authorized to conduct business in the state of California. If a bidder fails to submit the required bid security with the bid, the bid shall be deemed non-responsive. After bids are opened, bid security is irrevocable for the period specified in the invitation for bids. If the successful bidder fails to execute the contract within the time specified, the total amount of the bid security shall be forfeited to the City. The security of an unsuccessful bidder shall be returned to the bidder no later than sixty calendar days from the date of contract award. (3510-10/01)
- (c) Performance Security. Performance security, if required, shall be in the form of a bond acceptable to the City and issued by an admitted surety insurer authorized to operate in the state of California. (3510-10/01)
- (d) Form of Bonds. The only bonds acceptable to the City shall be those executed on forms approved by the City Attorney and included with the bid or proposal documents. (3510-10/01)

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3.02.180 Local business preference.

- (a) Subject to the limitations contained in this section, the Purchasing/Central Services Manager shall extend a bidding advantage to a local business in the form of a 1% price preference in the evaluation of bids or proposals for the procurement of goods. (3510-10/01, 3718-08/05)
- (b) The following contracts are exempt from the provisions of this section: (3510-10/01)
 - (1) Contracts funded in whole or in part from grants, donations or gifts to the City if the provisions of this section conflict with any special conditions attached to the grants, donations or gifts, provided the special conditions have been approved and accepted pursuant to the donations policy of the City. (3510-10/01)
 - (2) Emergency procurements. (3510-10/01)
 - (3) Sole source contracts. (3510-10/01)
- (c) After a due process hearing, should the City Administrator determine that a price preference was received under this section through an intentional misstatement, the recipient of any such price preference shall be subject to a civil penalty of treble the dollar price preference received or \$5,000.00, whichever is greater. (3510-10/01)

3.02.190 Exempt and emergency procurements. The following purchases and procurements are exempted from the requirements of this Chapter:

- (a) **Public works construction contracts.** Those public works construction contracts, and the separate procurement of materials and supplies therefor, that are governed by other applicable laws, including but not limited to the City Charter. (3510-10/01)
- (b) **Emergency purchases and procurements.** An emergency shall be deemed to exist if: (3510-10/01)
 - (1) There is a great public calamity;
 - (2) There is immediate need to prepare for national or local defense;
 - (3) There is a breakdown in machinery or an essential service which requires an immediate procurement in order to safeguard the public health, safety or welfare;
 - (4) An essential, departmental operation affecting the public health, safety or welfare would be greatly hampered if the prescribed procurement procedure would cause an undue delay in the procurement of the needed service.

In case of an emergency which requires the immediate procurement of a commodity or service, the City Administrator may authorize the Finance Officer to secure by the open-market procedure, at the lowest obtainable price, any service or commodity regardless of the amount of the expenditure. (3510-10/01, 3718-08/05)

- (c) **Interagency purchase agreements.** Procurements utilizing agreements maintained by other public agencies for the provision of services or supplies to such agencies are exempt from the bidding and/or request for proposal process requirements of this Chapter. (3510-10/01)
 - (1) Cooperative Procurement. Notwithstanding any other provision of this Chapter, the Purchasing/Central Services Manager may authorize the City's participation with one or more other governmental, public or quasi-public agencies in a cooperative agreement for the procurement of goods and/or services, provided that at least one of the agencies has solicited bids using methods similar to those set forth in this Chapter. (3510-10/01, 3718-08/05)
 - (2) Use of Another Entity's Contract. The Purchasing/Central Services Manager may authorize the procurement of goods and/or services through the use of a contract initiated by another governmental, public or quasi-public entity, provided that the original parties

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to the contract agree, the contract was awarded. The contract is for identical or nearly identical goods and/or services, and the contract resulted from a competitive bid using methods similar to those required by this Chapter. (3510-10/01, 3718-08/05)

- (3) **Mutual Aid.** The Purchasing/Central Services Manager may sell to, acquire from, or use goods belonging to another government, public or quasi-public agency independent of the requirements of this Chapter and under the terms agreed upon between the parties, provided that such activity does not adversely affect City services and is approved in advance in writing by the City Administrator. (3510-10/01, 3718-08/05)
- (d) **Sole-source procurements.** In those cases where the procurement of any product or supply is obtainable only from a single or sole source, based upon the good faith review of available products and services by the Finance Director, the Finance Director, and with the assistance of the City Attorney, shall negotiate with the purveyor of such equipment, product, supply or service, to the end that the City receives the desired product, equipment, service or supply on fair and equitable terms. Examples of acceptable sole source purchases are equipment for which there is no comparable competitive product, a component or replacement part for which there is no commercially available substitute and which can be obtained only from the manufacturer, and an item where compatibility with items in use by the City is the overriding consideration. Purchases from regulated public utilities may be made pursuant to applicable tariff without regard to this section. (3510-10/01, 3718-08/05, 3751-11/06)

3.02.195 Right to inspect plant and audit records.

- (a) **Right to Inspect Plant.** The City may, at reasonable times, inspect the part of the plant, place of business or work site of a vendor/contractor or subcontractor at any tier which is pertinent to the performance of any contract awarded or to be awarded by the City. (3510-10/01)
- (b) **Right to Audit Records.** The City shall be entitled to audit the books and records of a vendor/contractor or subcontractor at any tier to the extent that such books, documents, papers, and records are pertinent to the performance of such contract or subcontract. (3510-10/01)

3.02.200 Disqualification of vendors. The Finance Director may, for good cause appearing: (3510-10/01, 3718-08/05, 3751-11/06)

- (a) decline to accept offers, bids or quotations from prospective vendors; and/or (3510-10/01)
- (b) deem a prospective bidder/vendor as non-responsive or non-responsible. (3510-10/01)

A bidder/vendor whose offer, bid or quotation has been declined or has been deemed non-responsive or non-responsible shall have the right to appeal such decision of the Finance Director to the City Administrator within a reasonable time after demand made in writing to the Finance Director to accept the proffered bid, offer or quotation.

(2259-2/78, 2464-12/80, 3510-10/01, 3718-08/05, 3751-11/06)

3.02.210 Disposition of surplus personal property.

- (a) **Authority.** The Purchasing/Central Services Manager is authorized to sell or dispose of surplus personal property having a salvage value in the open market, by public auction, by competitive sealed bids or by exchange or trade-in for new goods. The sale or lease of surplus personal property to a governmental, public or quasi-public agency may be without advertisement for or receipt of bids. (3510-10/01, 3718-08/05)
- (b) **Property with No Salvage Value.** Surplus personal property with no salvage value, as determined by the Purchasing/Central Services Manager, shall be disposed of in a manner that salvages recyclable components, if practical. (3510-10/01, 3718-08/05)

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- (c) Unclaimed, Seized or Abandoned Property. The Purchasing/Central Services Manager is authorized to sell or dispose of all goods in the possession or custody of the police department which are unclaimed, seized and/or abandoned and may be legally disposed of by the City. (3510-10/01, 3718-08/05)
- (d) Records. The Purchasing/Central Services Manager shall provide reports to the City Administrator which indicate surplus personal property disposed of, the method of disposal, and the amounts recovered from its disposal and shall maintain records for public inspection relative to the disposal of surplus personal property for a period of time in compliance with state law and the City's records retention schedule. (3510-10/01, 3718-08/05)
- (e) Donations. Upon approval in advance in writing of the City Administrator, surplus personal property may be donated to governmental, public or quasi-public agencies, charitable or non-profit organizations. (3510-10/01)
- (f) Proceeds of Sale. Proceeds from the sale of surplus personal property shall be deposited into the appropriate City fund. (3510-10/01)

3.02.220 Ethics.

- (a) Statement of Policy. City employees shall discharge their duties impartially so as to assure fair competitive access to City procurement opportunities by responsible contractors. Moreover, they shall conduct themselves in such a manner as to foster public confidence in the integrity of City procurement activities. (3510-10/01)
- (b) Conflict of Interest. No City employee shall participate directly or indirectly in a City procurement when the employee knows that: (3510-10/01)
 - (1) The employee or any member of the employee's immediate family has a financial interest pertaining to the procurement; or (3510-10/01)
 - (2) The employee or any member of the employee's immediate family is negotiating or has an employment arrangement which is contingent upon or will be affected by the procurement. (3510-10/01)
- (c) Withdrawal from Participation. Upon discovery of an actual or potential conflict of interest, an employee shall promptly withdraw from further participation in the procurement. (3510-10/01)
- (d) Gratuities. No person shall offer, give or agree to give any City employee any gratuity or offer of employment in connection with a procurement by the City. No City employee shall solicit, demand, accept or agree to accept from any other person a gratuity or an offer of employment in connection with a procurement by the City. (3510-10/01)

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ATTACHMENT #3

CHAPTER 3.03

PROFESSIONAL SERVICES

(2047-5/76, 2464-12/80, 2590-1/83, 2945-7/88, 3097-4/91, 3375-11/97, 3511-10/01, 3604-06/03, 3734-05/06)

Sections:

- 3.03.010 (Repealed, 3511-10/01)
- 3.03.020 Definitions
- 3.03.030 (Repealed, 2590-1/83)
- 3.03.040 Selection guidelines
- 3.03.050 (Repealed, 2590-1/83)
- 3.03.060 Procedure
- 3.03.070 (Repealed, 2590-1/83)
- 3.03.080 Exempt and emergency procedures
- 3.03.090 (Repealed, 3511-10/01)
- 3.03.100 Authorization by Department Directors
- 3.03.110 (Repealed, 3511-10/01)
- 3.03.120 Existing agreements

3.03.020 Definitions.

- (a) "Consultant" means any provider of services under this Chapter as an individual, partnership, corporation or otherwise. (2047-5/76, 2590-1/83)
- (b) "Director" means the Department Head or his/her designee as approved by City Council resolution, vested with the authority to administer the provisions of this Chapter with respect to contracting for services. (2047-5/76, 2590-1/83, 3511-10/01, 3604-6/03)
- (c) "Professional Services" means those services, which involve the exercise of professional discretion and independent judgment based on an advanced or specialized knowledge, expertise or training gained by formal studies or experience or services which are not readily or efficiently procured by competitive bidding pursuant to Huntington Beach Municipal Code Section 3.02. Such services shall include but not be limited to those services provided by appraisers, architects, attorneys, engineers, instructors, insurance advisors, physicians and other specialized consultants. (2047-5/76, 2590-1/83, 3375-11/97, 3511-10/01)

3.03.040 Selection guidelines. In all cases, the final selection of a consultant shall include consideration of the following factors:

- (a) Actual capability to complete the project in conformance with the specifications, conditions and other requirements of the City of Huntington Beach;
- (b) Demonstrated ability to prepare professional, accurate and timely-finished products irrespective of unusual or difficult circumstances.
- (c) A reasonable contract price in relation to the size, quality and time restraints of the proposed project with due consideration of competitive proposals. (2047-5/76)

3.03.060 Procedure. The procedure for the contracting of services is as follows:

- (a) The Director of the department primarily responsible for the particular project shall prepare a written statement defining the necessity and scope of the project, and submit it to the Central Services Manager. Upon approval by the City Administrator and the Central Services Manager, the Director shall prepare a written statement of the specifications, conditions and other requirements for the requested services and provide a copy to consultants who may wish to perform the service. (3734-05/06)

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- (b) Except as identified in Section 3.03.080, the Director, or his designee, shall request written proposals from not less than three (3) available qualified consultants. He shall thereafter conduct discussions with them regarding the project if such discussions are indicated by the complexity of the project, and based upon the selection guidelines established in section 3.03.040 and the criteria established by him, select the consultant from the responsible proposals submitted to him, deemed to be the most highly qualified to provide the services required. (3734-05/06)
- (c) If the procurement has been budgeted, contractual agreement shall be negotiated with the consultant subject to final approval as to form by the City Attorney, and as to content by the City Administrator. (3375-11/97, 3511-10/01)
- (d) If the procurement has not been budgeted, then the Director shall prepare a request for appropriation for the City Administrator to submit to the City Council in the usual prescribed manner.
- (e) The City Attorney shall counsel and advise City officials in the implementation of this Chapter. (2047-5/76, 2590-1/83)

3.03.080 Exempt and emergency procedures. The need for certain budgeted and emergency and exempted procurements are recognized.

- (a) An emergency shall be deemed to exist if:
 1. There is a great public calamity; (3511-10/01)
 2. There is immediate need to prepare for national or local defense; (3511-10/01)
 3. There is a breakdown in machinery or an essential service which requires the immediate attention of a professional in order to protect the public health, safety or welfare; (3511-10/01)
 4. An essential, departmental operation affecting the public health, safety or welfare would be greatly hampered if the prescribed procedure would cause an undue delay in the procurement of the needed services. (2047-5/76, 3511-10/01)

In the case of an emergency which requires the immediate retention of a professional consultant, the City Administrator may authorize the Department Director to secure by the open-market procedure, at the lowest obtainable price consistent with professional standards, any professional service regardless of the amount of the expenditure. (3511-10/01)

- (b) Other interagency Agreements. Procurements utilizing contractual agreements maintained by other public agencies for the provision of professional services to such agencies are exempt from the requirements of this Chapter except that the provisions of Section 3.03.060(c) shall apply in every case and so long as such other agency complied with its own professional services contract requirements as approved by the Department Director. (3375-11/97, 3511-10/01)
- (c) All contracts for performance of professional services for the City which exceed \$30,000 shall be awarded in accordance with the procedures of this code. All contracts for professional services which do not exceed \$30,000, with prior approval of the Central Services Manager or his / her designee, may be let without competitive bidding or negotiation. (3734-05/06)

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3.03.100 Authorization by Department Directors. The Director of any department for which such services are required may contract directly for any professional services when procurement of such services has been budgeted and there are sufficient unencumbered appropriated funds available, or wherein the cost of which will be fully paid or reimbursed to the City. The annual budget for the fiscal year in which the agreement is entered into shall provide a general description of the work to be performed. (2047-5/76, 2945-7/88, 3375-11/97, 3511-10/01)

The complete original of the executed agreement and the names of the consultants who submitted proposals shall be forwarded to the City Clerk. A complete copy of all approved insurance certificates and subsequent renewals shall be filed with the Risk Manager. (3511-10/01)

3.03.120 Existing agreements. The terms and conditions of any existing professional services agreement may be modified so as to increase or decrease the term, compensation, scope of work or otherwise, by mutual agreement of the City and the consultant selected. However, at no time shall an agreement be amended to extend an agreement beyond three years from receipt of the original request for proposals without compliance with the bid procedure established by Huntington Beach Municipal Code Section 3.03.060. (2390-9/79, 3511-10/01)

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ATTACHMENT #4



ADMINISTRATIVE REGULATION

Office of the City Administrator

Number: 229
Sections: 6
Effective Date: 6/1/03

SUBJECT: Sole-Source Procurements

1. Purpose: Non-Competitive Bids/Sole Source process is to be used for City procurement. The following items are exempt from this process: procurement card purchases, petty cash, training/schooling, reimbursements, subscriptions, trip related cost, interagency purchase agreements, Public Works projects and emergency procurement.
2. Authority: Refer to Municipal Code Section 3.02.050 (b) Director of Administrative Services. This policy does not apply to Municipal Code Section 3.03 "Professional Services."
3. Application: This regulation shall apply to all departments and all personnel
4. Definitions: Sole source is defined as "the use of one source when that source is the only available firm possessing the ability to fulfill the purchasing needs." Single source is defined as "the practice of using one source, among others in a competitive marketplace which, for justifiable reason, is found to be the most advantageous for the purpose of fulfilling a given need."
5. Policy: Sole Source process is the established method by which departments may requisition material, equipment and services that are obtainable only from a single or sole source, and not adaptable to competitive bidding. If expenditures exceed \$50,000 with, one vendor, original contract amount and any additional amendments the department must also obtain City Council approval.
6. Responsibilities:
 - 6.1 Originating Department
 - 6.1.1 Responsible for preparation of Sole-source justification form as prescribed by the Purchasing Manager
 - 6.1.2 Responsible for authorized department personnel signing the sole-source justification form.
 - 6.1.3 Upon completing the sole-source justification, and prior to submitting for approvals, the department will have the Purchasing Division review.

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6.1.4 Once Purchasing has reviewed and proper approvals have been obtained the department will prepare a requisition in the JDE system along with the approved sole-source justification form.

6.2 Purchasing Division

6.2.1 Responsible for reviewing Sole-source justification form by;

- Verifying the supplier ability to meet requirements and specifications.
- Financial stability of the supplier
- Determine if price offered is reasonable
- Verifying the type of market research to determine sole-source
- Request any other information from the department or supplier

6.3 Administrative Services Director

6.3.1 Upon completing the review of purchasing, the Administrative Services Director will approve the justification process and indicate that the requirements of Municipal Code Section 3.03 have been fulfilled.

6.3.2 Administrative Services Director may request the assistance of the City Attorney to negotiate with the supplier to ensure fair and equitable terms.

6.4 Assistant City Administrator

6.4.1 Assistant City Administrator will verify the approvals and consequences of not purchasing the goods/services with the proposed supplier.

6.4.1 Assure that department obtains City Council approval for all Sole-source transaction exceeding \$50,000.

6.5 Finance Officer

6.5.1 May authorize the increase of the \$50,000 threshold based upon inflationary influences at his/her discretion.

(Original Signed 6/6/03)

Ray Silver
City Administrator

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ATTACHMENT #5

Excerpt from City of Huntington Beach City Charter

Section 614. CONTRACTS ON PUBLIC WORKS.

Except as hereinafter expressly provided, every contract involving an expenditure of more than Twenty-five Thousand Dollars (\$25,000) for the construction or improvement (excluding maintenance and repair) of public buildings, works, streets, drains, sewers, utilities, parks and playgrounds, and each separate purchase of materials or supplies for the same, where the expenditure required for such purchase shall exceed the sum of Twenty-five Thousand Dollars (\$25,000), shall be let to the lowest responsible bidder after notice by publication in accordance with Section 503 by two or more insertions, the first of which shall be at least ten days before the time for opening bids.

The City Council may reject any and all bids presented and may readvertise in its discretion. After rejecting bids, or if no bids are received, or without advertising for bids if the total amount of the contract or project is less than Twenty-five Thousand Dollars (\$25,000), the City Council may declare and determine that in its opinion, the work in question may be performed better or more economically by the City with its own employees, or that the materials or supplies may be purchased at lower price in the open market, and after the adoption of a resolution to this effect by the affirmative vote of a majority of the total members of the City Council, it may proceed to have said work done or such materials or supplies purchased in the manner stated without further observance of the provisions of this section.

All public works contracts exceeding the sum of Twenty-five Thousand Dollars (\$25,000) may be let and purchases exceeding the sum of Twenty-five Thousand Dollars (\$25,000) may be made without advertising for bids if such work or the purchase of such materials or supplies shall be deemed by the City Council to be of urgent necessity for the preservation of life, health, or property and shall be authorized by at least five affirmative votes of the City Council.

Projects for the extension, replacement or expansion of the transmission or distribution system of any existing public utility operated by the City or for the purchase of supplies or equipment for any such project or any such utility may be excepted from the requirements of this section by the affirmative vote of a majority of the total members of the City Council.

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